

# MAINE STATE LEGISLATURE

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January 7, 1971

Mr. Freddie J. Pelletier  
146 Van Buren Road  
Limestone, Maine 04750

Dear Mr. Pelletier;            Re: Limestone Water & Sewer District

This will acknowledge receipt of your letter of January 5 asking if there is any conflict of interest or incompatibility in holding the office of trustee of the Limestone Water and Sewer District and serving as superintendent of the district. You advise me that you were elected a trustee in March 1969 and resigned that office to become superintendent on a three year contract in July 1970. You now contemplate running for the Board of Trustees in March.

Ordinarily this office does not advise private individuals or local districts concerning legal problems. We are attorneys for State government and are required to confine legal activities to matters of State government. However, it has been customary for many years for this office to give informal opinions on matters of compatibility or conflict of interest between officers.

I think the answer to your question is contained in the charter of the Limestone Water and Sewer District, which is Private and Special Laws 1957, Chapter 59. I call particular attention to certain language in section 8. The fourth sentence of that section says:

"As soon as convenient after the members of said board are elected, said trustees shall hold a meeting in the town of Limestone and organize by the election of a president and a clerk, adopt a corporate seal, choose a treasurer and, when necessary, all other needful officers and agents who, with the treasurer, shall serve at their pleasure and whose compensation shall be fixed by the trustees."

January 7, 1971

You will note that this language speaks of "needful officers and agents." The legislature here distinguished between officers and agents. Officers are persons who hold positions similar to president, treasurer, vice president, secretary, clerk. The word "agents" would appear to be synonymous with "employees." The reason I so conclude is that there is nothing contained in the language of the charter with this one exception which would authorize the hiring of employees to do the actual work. Naturally, there must be employees to drive trucks and do other manual labor. Hence, we find that the trustees are authorized to select officers and agents and fix their compensation.

We now turn to the last sentence of section 8 which states: "Members of the Board of Trustees may be eligible to any office under the board, and shall be sworn into office by a Justice of the Peace, Notary Public or the Clerk of the Town of Limestone." You will note here that a member of the board is eligible to any "office." It does not indicate that a member is eligible to be an "agent." It seems to me that here again the legislature has intentionally made a distinction between the holding of an office and the being an employee of the board.

Superintendent is a title given by the trustees to the person who is in charge of the actual day-to-day operation and work of the district. He could well be called foreman, executive director, or any number of titles. Nevertheless, he is an "agent" or "employee." He is not in the classification of an "office" or "officer."

Therefore, a trustee of the Limestone Water and Sewer District may not at the same time hold the position of Superintendent of the district.

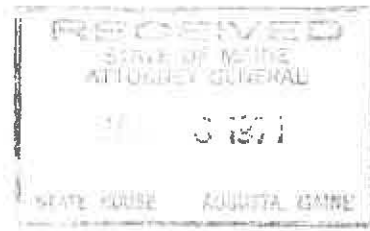
Very truly yours,

George C. West  
Deputy Attorney General

GCW:H

January 5, 1971

James Erwin  
Attorney General  
State of Maine  
Augusta, Maine



Re: Limestone Water & Sewer District

Dear Sir:

I would sincerely appreciate your advising me whether or not a trustee of the Limestone Water and Sewer District may also serve as Superintendent of the District at the same time.

By way of information, I was duly elected a trustee of said District at a regular town meeting in March of 1969. However, I resigned my position as trustee to become Superintendent on a three year contract on or about July 29, 1970. The other two remaining trustees, Richard Edgecomb and George Obar, appointed one Josiah Noyes to fill my unexpired term.

Incidentally, the Limestone Water and Sewer District was created by legislative charter as found in Chapter 59, of the Private and Special Resolves of Maine, 1957.

The only precedent I am aware of regarding such dual capacities involved a Howard McCue of the Fort Fairfield Utilities District, and a Sherman Smith, of the Waterville Sewerage District, who subsequently was a trustee and superintendent of the Kennebec Water District. If memory serves me well, I believe there was a similar situation in the Bingham or Jackman area.

As I am presently flirting with the idea of running for the Board of Trustees again this year at our town meeting which will be held in March, I felt I should obtain a ruling in advance from your office before creating any technical problems.

Thank you for your anticipated prompt attention in acknowledging this request.

Sincerely yours,

FREDDIE J. PELLETIER  
146 Van Buren Road  
Limestone, Maine 04750